

## **Chapter 17.10**

### **HUNTINGTON BEACH NUISANCE CODE**

(2870-12/86, 2897-7/87, 3079-12/90, 3212-11/93, 3386-3/98, 3398-7/98, 3739-7/06, 3765-4/07, 3777-10/07)

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- 17.10.160 Repealed Ord 3398 7/98
- 17.10.170 Repealed Ord 3398 7/98
- 17.10.180 Repealed Ord 3398 7/98
- 17.10.190 Repealed Ord 3398 7/98

**17.10.010 Nuisance defined.** As used in this chapter, a nuisance shall mean activities or conditions which affect the social and economic stability of neighborhoods, impair property values and which are injurious or detrimental to the health, safety and general welfare of the citizens of Huntington Beach. (3386-3/98)

**17.10.020 Additional Enforcement Remedies.** The procedures provided for in this chapter shall be cumulative and in addition to any other procedure or legal remedy provided for in this Code or by state law for the abatement of nuisance related activities or conditions. Nothing in this chapter shall be deemed to prevent the City from commencing a civil or criminal proceeding to abate a nuisance under applicable civil, penal or municipal code provisions as an alternative or alternatives to the proceedings set forth in this chapter. (3386-3/98)

#### **17.10.030 Definitions:** (3398-7/98)

- (a) **Abate/Abatement.** As used in this chapter, the terms "abate" and "abatement" shall mean action to terminate, remove, stop, cease, repair, replace or otherwise remedy a nuisance related activity or condition by such means and in such manner as is necessary to the interest of the health, safety or general welfare of the public. (3386-3/98, 3398-7/98)
- (b) **City Administrator/Administrative Abatement Officer.** As used in this chapter, "Administrative Abatement Officer" shall mean the City Administrator and any other person or persons designated by the city Administrator as being an Administrative Abatement Officer. (3386-3/98, 3398-7/98)

(c) Person/Responsible Person/Party. (3386-3/98, 3398-7/98)

- (1) As used in this chapter, "Person"/"Responsible Person"/"Party" shall mean any individual, business or entity who is responsible for causing, maintaining or permitting a nuisance activity or condition. The terms "person," "responsible person" or "responsible party" include, but are not limited to, a property owner, tenant, person with a legal interest in real property or person in possession or occupying real property, the president or other officer of a corporation, a business owner or manager of a business. (3386-3/98, 3398-7/98)
- (2) Any act of negligent or willful conduct of a minor which results in the creation or maintenance of a condition or activity which constitutes a nuisance within the meaning of this chapter shall be imputed to the parent or guardian having custody and control of the minor for all purposes, including the duty to abate the nuisance(s) and the imposition of administrative penalties and costs as provided for herein. The parent or guardian having custody and control of the minor shall be jointly and severally liable with the minor for any and all penalties or costs imposed pursuant to this chapter. (3386-3/98, 3398-7/98)

(d) Premises. As used in this chapter, the term "premises" shall mean any location, building, structure, residence, garage, room, shed, shop, store, dwelling, lot, parcel, land or portion thereof whether improved or unimproved. (3386-3/98, 3398-7/98)

**17.10.040 Abatement of Nuisance Related Activities or Condition.** Any activity, condition or premise(s) maintained as described herein is declared to be a public nuisance and shall be abated by cessation of the activity, rehabilitation, demolition, removal, repair or other appropriate remedy pursuant to the procedures set forth in this chapter. (3386-3/98, 3398-7/98)

**17.10.050 Nuisance Designated.** It is hereby declared a public nuisance, or an act in the nature of a public nuisance, for any person or party to cause, permit, abet or otherwise allow any premises in this City to be used in such a manner that any one or more of the activities or conditions described in the following subsections are found to occur thereon. (3386-3/98, 3398-7/98)

- (a) Any condition or activity which is a "nuisance" or a "public nuisance" as defined in Sections 3479 and 3480 of the Civil Code of the State of California or which is specifically declared to constitute a nuisance or public nuisance by any statute of the State of California or by any ordinance of the City of Huntington Beach. (3386-3/98)
- (b) The violation of any provisions of the following Uniform Codes which have been adopted, as amended, by the City of Huntington Beach: (3386-3/98)
  - (1) *Uniform Building Code;*
  - (2) *National Electrical Code;*
  - (3) *Uniform Fire Code;*
  - (4) *Uniform Housing Code;*
  - (5) *Uniform Plumbing Code;*
  - (6) *Uniform Mechanical Code;*
  - (7) *Uniform Code for the Abatement of Dangerous Buildings;*
  - (8) *Uniform Swimming Pool, Spa and Hot Tub Code;*
  - (9) *Uniform Administrative Code.*
- (c) The violation of any provision of the Huntington Beach Municipal Code, or the Huntington Beach Zoning and Subdivision Ordinance Code, or any code adopted by reference. (3386-3/98)
- (d) The operation or maintenance of any business, trade or profession in violation of Title 5 of this Code, or lack of a proper certificate of occupancy. (3386-3/98)

- (e) The frequent gathering, or coming and going, of people who have an intent to purchase or use controlled substances on or at any premises in this City. (3386-3/98)
- (f) Participation in a criminal street gang as proscribed by California *Penal Code* Section 186.22. (3386-3/98)
- (g) The making or continuing, or causing to be made or continued, of any loud, unnecessary or unusual noise which disturbs the peace and quiet of the neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area. (3386-3/98)
- (h) The occurrence of criminal activity at any premises which threatens the life, health, safety or welfare of the residents of the premises, neighbors or the public. (3386-3/98)
- (i) Buildings which are abandoned, boarded up, partially destroyed or left unreasonably in a state of partial construction. (3386-3/98)
- (j) Land, the topography or configuration of which, whether in a man-made state or as a result of grading operations, excavation or fill, causes erosion, subsidence, or surface water drainage problems of such magnitude as to be injurious to the public health, safety and welfare or to adjacent properties. (3386-3/98)
- (k) The failure to secure and maintain from public access all doorways, windows and other openings into vacant structures. (3386-3/98)
- (l) Overgrown vegetation on developed property which: (3386-3/98)
  - (1) Harbors rats, vermin, and other disease carriers; or (3386-3/98)
  - (2) Causes detriment to neighboring properties or property values; or (3386-3/98)
  - (3) Causes a hazardous condition to pedestrian and/or vehicular traffic. (3386-3/98)
- (m) Dead, decayed, diseased or hazardous trees, weeds and other vegetation on developed property which: (3386-3/98)
  - (1) Constitutes an unsightly appearance; or (3386-3/98)
  - (2) Creates danger to public safety and welfare; or (3386-3/98)
  - (3) Is detrimental to nearby property or property values. (3386-3/98)
- (n) Abandoned, broken, neglected machinery or equipment which poses a potential hazard to the general public. (3386-3/98)
- (o) Unprotected or hazardous excavations, swimming pools, and ponds. (3386-3/98)
- (p) Broken or discarded furniture, household equipment and appliances on the premises which causes damage or is a detriment to neighboring properties. (3386-3/98, 3398-7/98)
- (q) Packing boxes, lumber, dirt and other trash or debris outside commercial and industrial buildings which is visible from public streets and causes detriment to neighboring properties. (3386-3/98)
- (r) Accumulation of dirt, litter or debris in doorways, adjoining sidewalks, parking lots and landscaped areas. (3386-3/98)
- (s) Deteriorated parking lots which have pot holes, cracks and ridges. (3386-3/98)

- (t) Fences in a state of disrepair or in a dilapidated condition. (3386-3/98)
- (u) Premises including, but not limited to, building exteriors which are maintained in such condition as to become so defective, unsightly or in such condition of deterioration or disrepair that the same causes diminution of the property values of surrounding property or is materially detrimental to proximal properties and improvements. This includes, but is not limited to, the keeping and disposing of or the scattering over the property or premises of any of the following: (i) lumber, junk, trash or debris; (ii) abandoned or discarded or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers; (iii) stagnant water or excavation(s); (iv) any device, decoration, design, fence, structure, clothesline or vegetation which is unsightly by reason of its condition or inappropriate location; or (v) permitting or allowing any graffiti to remain on any building, wall, fence or structure. (3386-3/98)
- (v) The use of any premises for the purpose of illegal gambling, lewdness, assignation, or prostitution as proscribed by state law or this Code. (3386-3/98)
- (w) The maintenance, use, rental or lease of any premises, or subunit thereof, including single-family dwellings, where persons are allowed to congregate, gather or loiter in such a manner as to disturb the peace of other persons lawfully on the property itself or lawfully in the vicinity of the property. (3386-3/98)
- (x) The use of any premises for the purpose of unlawfully selling, serving, storing, keeping, manufacturing or giving away any controlled substance, precursor, or analog as those terms are defined by state law. (3386-3/98)
- (y) Noise disturbances in violation of Chapter 8.40 of this Code. (3386-3/98)
- (z) Maintenance of properties or premises in such a manner as to cause substantial diminution of the enjoyment, use, or property values of adjacent properties. (3386-3/98)
- (aa) The maintenance of any sidewalk or driveway located on private property which is debilitated, broken, damaged, or raised to such a degree as to be unsightly if it can be viewed from public property, or to be injurious to property or injurious to persons using said driveway or sidewalk. (3398-7/98)
- (bb) The maintenance of property where buildings or structures have been left boarded up for a period in excess of ten (10) days without a valid demolition or building permit on file with the Huntington Beach Community Development Department or abate said boarded up condition. (3398-7/98)
- (cc) The maintenance of buildings or structures used or intended to be used for dwelling purposes, storage or similar uses, because of dilapidation, decay, damage, or faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation or use is in a condition that is likely to cause injury or be detrimental to the health, safety, or general welfare of those living in the area or within. (3398-7/98)

#### **17.10.051 Graffiti.**

- (a) Upon personal observation or the receipt of a complaint of graffiti or other inscribed material that is located on public or private property within the City so as to be capable of being viewed by a person utilizing any public right-of-way, the Director of Public Works or his/her representative may deliver or cause to be delivered a letter to the private or public property owner advising said owner that he/she is maintaining a public nuisance. The Director of Public Works or his/her representative is authorized to provide for the removal of such graffiti or other inscribed material at the City's expense upon the following conditions: (3739-7/06)

- (1) Where a structure or personal property is owned by a public entity other than the city, the removal of the graffiti or other inscribed material may be authorized only after securing the written consent of the public entity having jurisdiction over the structure or personal property and such entity executes a release and waiver approved as to form by the City Attorney. (3739-7/06)
  - (2) Where a structure or personal property is privately owned, the removal of the graffiti or other inscribed material may be authorized only after securing the written consent of the owner and the owner executes a release and waiver approved as to form by the City Attorney. (3739-7/06)
  - (3) In removing the graffiti or other inscribed material, the painting or repair of an area more extensive than where the graffiti or inscribed material is located shall not be authorized, unless the owner agrees to pay for the costs of repainting or repairing a more extensive area. (3739-7/06)
- (b) If the public or private property owner's consent cannot be obtained, said owner shall have the duty to remove the graffiti or inscribed material at his/her expense, pursuant to the following provisions: (3739-7/06)
- (1) The Director of Public Works or his/her designed shall cause written notice to be served upon the owner of the affected premises requiring that the graffiti or other inscribed material located on the property be painted over, repaired, or removed within 72 hours. (3739-7/06)
  - (2) The written notice may be served upon the property owner either by posting such on the affected premises or by certified mail. If written notice is made by certified mail, then service shall be complete at the time of deposit in the U. S. Postal Service. (3739-7/06)

#### **17.10.052 Appeal of the Action by the Director of Public Works.**

- (a) If an owner served with written notice by the Director of Public Works or his/her designee requiring removal of graffiti or other inscribed written material from his/her property disagrees with the imposition of such an obligation on the basis that it is being wrongfully applied, compliance would result in undue hardship, or the belief that he/she should not be required to conform with Section 17.10.051(b) due to unique circumstances, he or she may appeal such decision to the City Administrator within ten (10) days after service of the written notice. The appeal shall be in writing to the City Administrator and shall set forth the basis of the appeal and be submitted with all supporting documents, if any. (3739-7/06)
- (b) Within ten (10) days after receipt of the Notice of Appeal, the City Administrator or his/her designee shall render a written decision and mail a copy of such registered or certified mail to the owner. Service of the written notice shall be complete at time of deposit in the U.S. Postal Service. (3739-7/06)

#### **17.10.053 Appeal to the City Council.**

- (a) Any owner dissatisfied by the decision of the City Administrator may request a hearing before the City Council. Such a request must be filed with the City Clerk's office within ten (10) days after service of the written notice of the decision by the City Administrator. (3739-7/06)
- (b) Within fifteen (15) days of receipt of request for a hearing, the City Administrator or his/her designee shall give not less than ten (10) days written notice by certified or registered mail of the date, time, and place of such a hearing to the applicant. The City Council, on appeal, shall consider all documents put forth by the applicant to the Director of Public Works and the City Administrator. The City Council may consider any additional evidence, including

points and authorities of law, that it deems necessary in rendering a decision. The decision of the City Council shall be final, and a notification of such shall be mailed to the owner. (3739-7/06)

#### **17.10.054 Abatement of Graffiti by City.**

- (a) The City Council, after such public hearing, upon a finding of the existence of the graffiti or inscribed material and that such is designated as a nuisance under this Chapter, shall order the Director of Public Works to do said work, at the expense of the owner of the property, and provide for temporary payment of the same with city funds. (3739-7/06)
- (b) At the completion of the work, the Director of Public Works must prepare a statement of the proceedings, reciting the existence of the nuisance, the description of the property, the names of the owners and occupants, if known, the giving of notices, the holding of the public hearing, the making of the work order by the City Council, the doing of the work, and the cost thereof. (3739-7/06)
- (c) Such statement must be signed and verified by the Director of Public Works and filed with the City Council. (3739-7/06)
- (d) All costs incurred by the city shall constitute a charge and special assessment upon such parcel of land. If such costs are not paid within a period specifically set by the city, they shall then be declared a special assessment against that parcel as provided in section 38773.5 of the Government Code. Such special assessment shall be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedures and sale in case of delinquency as provided for ordinary county taxes. The city shall retain the additional and independent right to recover its costs by way of civil action against the owner and person in possession or control, jointly or severally. (3739-7/06)

#### **17.10.060 Violations.**

- (a) The owner or other person having charge or control of any such buildings or premises who maintains any public nuisance defined in this chapter, or who violates any notice of abatement served as provided in this chapter, is guilty of a MISDEMEANOR. (3386-3/98, 3739-7/06, 3739-7/06)
- (b) Any occupant or lessee in possession of any such building or structure who fails to vacate said building or structure in accordance with a notice given as provided in this chapter is guilty of a MISDEMEANOR. (3386-3/98)
- (c) Any person who obstructs, impedes or interferes with any representative of the City Council or with any representative of a City department or with any person who owns or holds any estate or interest in a building which has been ordered to be vacated, repaired, rehabilitated, or demolished or with any person to whom any such building has been lawfully sold pursuant to the provisions of this chapter when any of the aforementioned individuals are lawfully engaged in proceedings involving the abatement of a nuisance is guilty of a MISDEMEANOR. (3386-3/98)

**17.10.070 Alternatives.** Nothing in the foregoing sections shall prevent the City Attorney from commencing a civil or criminal proceeding to abate a public nuisance under applicable provisions of the California *Civil Code* or *Penal Code* as an alternative to the proceedings set forth herein. (3386-3/98, 3398-7/98)

**17.10.080 Reward.** The City Council may provide a reward, by resolution, for information leading to the identification and apprehension of any person who applies graffiti within the City. In cases where multiple persons are identified and apprehended, based on a single graffiti incident, only one reward is authorized. (3765-4/07, 3777-10/07)